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REMARKS

Claims 1, 3, 5-15, 17, 22-24, and 27-36 remain pending in the application including independent claims 1, 10, 17, 22, and 34. Claims 2, 4, 16, 18-21 and 25-26 have been cancelled.

Claims 31 and 32 do not currently stand rejected under any prior art. Thus, applicant asserts that claims 31 and 32 are allowable and respectfully requests an indication of such.

The examiner has indicated that the allowability of claim 34 has been withdrawn but under item (6) of the present official action, claim 34 is still indicated as being allowable. Applicant requests clarification of the status of claim 34.

Claims 1, 3, 5-15, 17, 22-24, and 27-30, and 33-36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of DeBruine and further in view of AAPA.

Claim 1 recites a speaker housing, an air cleaner housing positioned between the speaker housing and an engine, and a plurality of brackets for mounting the speaker and air cleaner housings to a vehicle structure wherein at least one bracket is joined to the speaker housing and at least one bracket is joined to the air cleaner housing. The examiner argues that Everingham discloses a speaker housing 10 with a speaker 30 mounted in the speaker housing 10 and an air cleaner housing 20.

Claim 1 requires the air cleaner housing to be positioned between the speaker housing and an engine. The air induction component 20 in Everingham is clearly not positioned between the speaker housing 10 and the engine 14. As shown in Figure 1, air induction component 20 is positioned on an end of the speaker housing 10 opposite from the engine 14, i.e. the speaker housing 10 is between the engine 14 and the air induction component 20.

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The examiner argues the claim language fails to limit the positioning of the air cleaner, speaker housing, and engine with specific function or advantage. Applicant disagrees. The claim language recites that "a plastic air cleaner housing positioned between said speaker housing and an engine . . . ." Everingham clearly shows that the speaker housing is between the engine and the air induction component. DeBruine also does not show an air cleaner housing positioned between a speaker housing and an engine. Thus, none of the recited references disclose this claimed feature.

The prior art references must teach or suggest all of the claim limitations. As discussed above, neither of the references disclose the claimed configuration. Further, in order to modify a base reference, there must be some motivation or suggestion indicating the desirability of the modification. The examiner has pointed to no teaching in Everingham or DeBruine of any particular benefit to rearranging the component configuration. In addition, there is nothing in Everingham that would have led one of ordinary skill in the art to believe that Everingham's configuration was in any way deficient for Everingham's purposes or was in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to modify Everingham so as to arrive at the subject matter of claim 1 other than through the luxury of hindsight accorded one who first viewed applicant's disclosure.

The examiner is clearly engaging in a hindsight reconstruction of the claimed invention, using applicant's structure as a template and selecting elements from the references to fill the gaps. Applicant respectfully requests that the examiner provide a reference that shows the configuration set forth in the claims, as the only showing of such a configuration is in the subject application.

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Further, claim 1 requires that brackets mount the air cleaner housing to the vehicle structure and mount the speaker housing to the vehicle structure where each bracket includes a first end portion mounted to the vehicle structure and a distal portion joined with the air cleaner housing or speaker housing. The examiner admits that Everingham does not disclose the use of a plurality of brackets. The examiner argues that DeBruine teaches a universal mounting bracket having a support rod and a clamp for clamping an exhaust component coupled to a support plate. The examiner argues that this configuration corresponds to the claimed distal portions joined to the air cleaner or speaker housing. Applicant disagrees with this interpretation of DeBruine.

DeBruine teaches the use of a single attachment to one pipe part and not a plurality of brackets that attach to different housing portions. Further, the bracket assembly in DeBruine is not joined to an air cleaner housing or speaker housing. The bracket assembly includes a rod 22 that extends between a rubber insulator 16 and a plate 26. A U-bolt 42 is attached to the plate 26. The U-bolt 42 clamps around a pipe 12 and allows for adjustment of the pipe in a plurality of directions. As discussed above, claim 1 requires the distal portions of the brackets to be joined with the air cleaner or speaker housings. There are no brackets with distal portions joined to any type of housing in DeBruine.

Additionally, there is no teaching in either reference of a plurality of brackets that are specifically joined to a speaker housing in combination with a bracket that is specifically joined to an air cleaner housing where the brackets mount the respective housings to a vehicle structure. Thus, the combination of references does not disclose, suggest, or teach the features of claim 1.

Further, there is no motivation or suggestion to modify Everingham with DeBruine. DeBruine teaches using a single "universal" clamp as opposed to a plurality of brackets as set forth

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in claim 1. Thus, DeBruine actually teaches away from using a plurality of brackets as claimed. Additionally, there is no teaching in DeBruine, and the examiner has pointed to no such teaching in DeBruine or the prior art, that indicates that the DeBruine clamping assembly would be adequate for a speaker housing and air cleaner housing combination as claimed by applicant.

As discussed above, DeBruine does not disclose a plurality of brackets, but instead discloses a single clamp. Assuming, *arguendo*, that sufficient motivation exist to make the modification, the only modification based on the combination of Everingham and DeBruine that makes sense would be to use the single bracket of DeBruine in Everingham. This would result in clamping around one portion of the Everingham assembly. There is no teaching in any of the references of a plurality of brackets joined to both the speaker and air cleaner housings for attachment to a vehicle structure as claimed.

Thus, for the many reasons set forth above, the rejection of claim 1 under 35 U.S.C. 103(a) as being unpatentable over Everingham in view of DeBruine and further in view of AAPA is improper and applicant respectfully requests that the rejection be withdrawn. For similar reasons claims 17 and 22 are also allowable over the recited combination of references.

Finally, the combination of references does not disclose, suggest, or teach the features of the dependent claims. Claim 5 requires that the distal portions of the bracket be welded to the speaker and air cleaner housing. The examiner argues that DeBruine teaches this welding configuration at column 4, lines 35-38. Applicant disagrees. As set forth in DeBruine, "... still other embodiments may include a formed rod 22 that is adapted to be mounted to the vehicle 14 by welding or the like without a rubber insulator." Column 4, lines 35-38. Thus, DeBruine teaches welding the bracket to

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the vehicle structure, not welding the bracket to the component itself. Thus, the recited references do not teach or suggest all of the claim limitations.

Claim 6 requires the distal portions of the bracket to be fastened to the housings. The bracket in DeBruine is not fastened to any type of housing as claimed. The fasteners fasten the rod 22 to support plate 26 and fasten the U-bolt 42 to the support plate 26. There is no teaching of fastening a bracket to a speaker or air cleaner housing. Thus, the recited references do not teach or suggest all of the claim limitations.

Claim 7 requires that the distal portions be pre-formed and insert molded into the housings. There is no teaching in DeBruine of insert molding brackets to a speaker or air cleaner housing. Thus, the recited references do not teach or suggest all of the claim limitations.

Claim 8 requires the distal portions to be snap fit to the housing. Again, there is no teaching in any of the references of this configuration. Thus, the recited references do not teach or suggest all of the claim limitations.

Further, with regard to claims 6-8, the examiner argues that mechanical techniques such as fastening and insert molding are commonly known mechanical techniques similar to welding. First, as discussed above, DeBruine does not teach welding a bracket to a housing but instead teaches welding a bracket to the vehicle. Second, DeBruine does not disclose suggest or teach any type of fastener, insert molded, or snap-fit attachment as defined in claims 6-8. Thus, the recited references do not teach or suggest all of the claim limitations.

Even assuming that examiner's argument has merit, the modification would result in a snap-fit, fastener, or insert molded interface between the bracket and the vehicle, not between the bracket and a housing. Finally, DeBruine cannot have an insert molded, fastener, welded, or snap-fit

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adjustment of the clamping portion of DeBruine. Thus, for the many reasons set forth above, the recited references do not teach or suggest all of the claim limitations.

Claim 9 requires that the plurality of brackets comprise a single bracket body having a plurality of leg mounts that extend between the housings and the vehicle structure. The examiner argues that DeBruine discloses a bracket that has a plurality of apertures that allow for lateral and longitudinal adjustment. The examiner further argues that based on the multiple apertures shown in DeBruine that it then "would have obvious [sic] to combine two or more brackets of such structure to comprise a single bracket comprising multiple legs for providing sufficient support of the length and weight capacity of the duct housing structure to the vehicle for the purposes of lessening vibrations. . . ." There is absolutely no support in DeBruine for the examiner's assertion. DeBruine clearly teaches the use of a bracket having a single leg portion 22 extending between the pipe 12 and the vehicle 14. There is no teaching in DeBruine of a single bracket body having a plurality of leg mounts that extend between the vehicle structure and the housings as claimed by applicant.

For similar reasons, dependent claims 23, 24, and 27-30 are also allowable over the cited references.

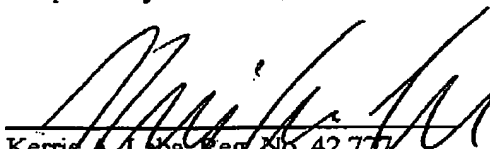
For the many reasons set forth above, the rejection of claims 1, 3, 5-15, 17, 22-24, and 27-36 under 35 U.S.C. 103(a) based on the combination of Everingham, as modified by DeBruine, and as modified by AAPA is clearly improper and must be withdrawn.

Thus, Applicant believes all claims are now in condition for allowance and an indication of such is requested. Applicant believes no additional fees are due, however, the Commissioner

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is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.


Respectfully submitted,

  
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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on September 7, 2005.

  
Laura Combs